

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, SEPTEMBER 6, 2005  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Deputy Mayor Atkins at 10:06 a.m. The meeting was recessed by Deputy Mayor Atkins at 11:58 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Deputy Mayor Atkins at 2:05 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. Deputy Mayor Atkins recessed the meeting at 2:15 p.m. to convene the Redevelopment Agency. Deputy Mayor Atkins reconvened the regular meeting at 2:24 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. Deputy Atkins recessed the meeting at 2:25 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 2:31 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. Deputy Mayor Atkins recessed the meeting at 4:35 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 4:46 p.m. with all Council Members present and District 2, District 8 and Mayor vacant. The meeting was adjourned by Deputy Mayor Atkins at 6:29 p.m. into Closed Session in the twelfth floor Committee Room to discuss existing and pending litigation matters.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

(8) Council District 8-vacant

Clerk-Maland (er/ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant



ITEM-10: INVOCATION

Invocation was given by Pastor James Pope of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Hud Collins commented on Hurricane Katrina, the City Attorney, and the Mt. Soledad cross.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. – 10:49 a.m.)

PUBLIC COMMENT-2:

Ron Boshun commented on the Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. – 10:52 a.m.)

PUBLIC COMMENT-3:

Al Strohlein commented on the proposed detox center in Council District 2.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:52 a.m. – 10:55 a.m.)

PUBLIC COMMENT-4:

Sandy Summers commented on City Attorney Aguirre's comments regarding him.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. – 11:00 a.m.)

**PUBLIC COMMENT-5:**

Muhammed Abdullah requested that the City re-open the investigation of the September 11<sup>th</sup> attacks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:00 a.m. – 11:03 a.m.)

**PUBLIC COMMENT-6:**

Don Stillwell commented on the Mt. Soledad cross.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:03 a.m. – 11:06 a.m.)

**PUBLIC COMMENT-7:**

Millie Strodman read and dedicated the Gettysburg address to Deputy Mayor Atkins and the Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:06 a.m. – 11:09 a.m.)

**PUBLIC COMMENT-8:**

Daniel Beeman commented on the work of each Council Member.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:09 a.m. – 11:13 a.m.)

**PUBLIC COMMENT-9:**

James Hartline expressed his concerns regarding street prostitution in Council District 3.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:13 a.m. – 11:16 a.m.)

**PUBLIC COMMENT-10:**

Max Gozesky commented on the retirement board and Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:19 a.m.)

**PUBLIC COMMENT-11:**

Desmond Kelly thanked Council on behalf of Front Runners and Walkers for the City's support during their organized event.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. – 11:20 a.m.)

**PUBLIC COMMENT-12:**

Jose Lopez commented on the Euclid Avenue Improvement Subcommittee.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:20 a.m. – 11:22 a.m.)

**PUBLIC COMMENT-13: REFERRED TO THE CITY MANAGER**

Susan Gloudeman expressed her concerns regarding the treatment she received from the Police Department when she attempted to turn over some stolen items.



FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:22 a.m. – 11:26 a.m.)

**PUBLIC COMMENT-14:**

Linda Kelson requested that the City reconsider the dredging of Casa Beach.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:26 a.m. – 11:29 a.m.)

**PUBLIC COMMENT-15:**

Johnnie Perkins commented on the Mission Valley Fire Station.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:34 a.m.)

**PUBLIC COMMENT-16:**

Jarvis Ross requested that Council address the potential crisis of a second airport runway.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:34 a.m. – 11:37 a.m.)

**PUBLIC COMMENT-17:**

Ted Kozminski expressed his concerns regarding the accidents and damage to personal property that occurs in front of his house due to the narrow width of Euclid Avenue.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:37 a.m. – 11:41 a.m.)

**PUBLIC COMMENT-18:**

Bob Dingeman expressed his appreciation and gratitude for the way the recent Penasquitos fire was handled.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:41 a.m. – 11:43 a.m.)

**PUBLIC COMMENT-19:**

Kevin Hauck reported that on September 9<sup>th</sup> a Public Convenience and Necessity Seminar regarding alcohol licenses will be held for community planners and community representatives.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:43 a.m. – 11:46 a.m.)

**PUBLIC COMMENT-20:**

Jim Varnadore commented on the Needle Exchange Program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:46 a.m. – 11:48 a.m.)

**PUBLIC COMMENT-21:**

Marvin Carpenter commented on various issues and problems the City is facing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:48 a.m. – 11:52 a.m.)

**PUBLIC COMMENT-22:**

Adrian Kwiatkowski commented on the Needle Exchange Program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:52 a.m. – 11:55 a.m.)

**COUNCIL COMMENT:**

**COUNCIL COMMENT-1:**

Council Member Peters commended the Fire and Police Departments for their excellent work during the Penasquitos fire.

Council Member Peters also announced that the City of San Diego received \$9.9 million in grants for Smart Growth Projects in San Diego County, noting that Bird Rock received one of those grants for streetscape improvements. Other projects which were funded by this grant were the Harbor Drive Pedestrian Bridge, the University Avenue Streetscape Improvements, pedestrian improvements on Gold Finch, the Mid City Urban Trail Bike Lanes and the Commercial Street Streetscape Project. Mr. Peters wished to thank City Staff who worked so hard to bring those funds to San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:33 a.m.;  
2:07 p.m. – 2:08 p.m.)

**COUNCIL COMMENT-2:**

Council Member Young commented on his community's efforts to assist the victims of Hurricane Katrina.

Council Member Young also commended the San Diego Police Department for making 45 arrests at the Meadowbrook Apartments over the past year related to drugs and gangs, and, on behalf of the residents in and around the area, wished to thank the police for their

work. Council Member Young noted that the San Diego Police through a sting operation also shut down an area liquor store and made arrests.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:32 a.m.  
2:06 p.m. – 2:06 p.m.)

**COUNCIL COMMENT-3:**

Deputy Mayor Atkins wished to thank the San Diego Police Department and the Alcohol Beverage Control Board who completed two license revocations and license suspensions, one at the site near the Meadowbrook Apartments and the other on Voltaire Street in Pacific Beach, where long investigations were undertaken at both sites. Miss Atkins expressed appreciation for the strong and concerted partnership between the San Diego Police Department and Alcohol Beverage Control Board.

Deputy Mayor Atkins also announced that later this week, Balboa Park will host the National Championship Tournament for the U.S. Lawn Bowling Association, which is the most prestigious event for lawn bowling in the United States. Miss Atkins stated that 48 players from across the country will participate for the championship title. The tournament will begin Thursday, September 8, 2005, at the Lawn Bowling Greens in Balboa Park and continue through Sunday evening. Miss Atkins encouraged people to attend and enjoy it.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:10 p.m.)

**CITY MANAGER COMMENT:**

City Manager Ewell along with staff provided a report to Council regarding the City's on-going efforts to assist the victims of Hurricane Katrina.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:11 a.m. – 10:26 a.m.)

CITY ATTORNEY COMMENT:

City Attorney Aguirre commended the fire and Police Departments for their work during the Penasquitos fire and recommended that the City acquire an additional helicopter.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:36 a.m.)



[ITEM-30:](#) Approval of Council Minutes.

**TODAY'S ACTION IS:** APPROVED

Approval of Council Minutes for the meetings of:

07/04/2005 - Adjourned  
07/05/2005 - Adjourned  
07/11/2005 - Adjourned  
07/12/2005 - Adjourned  
07/18/2005  
07/19/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:36 a.m.)

MOTION BY MADAFFER TO APPROVE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

**CLOSED SESSION:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *Sierra Club v. California Coastal Commission and City of San Diego***

San Diego Superior Court Case No. GIC844081

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

DCA assigned: D. Smith

This case involves a writ of mandate challenging the California Coastal Commission's January 12, 2005, approval of the City's application for a vested rights determination for the designation of a swim-only area and the placement of buoys in the ocean adjacent to the kayak boat launch and La Jolla Beach and Tennis Club at La Jolla Shores Beach. In closed session, the City Attorney will update the City Council on the status of the litigation and seek direction on Petitioner's most recent offer to settle the case.

**CLOSED SESSION COMMENT 1:**

Dan Beeman commented on the La Jolla Beach and Tennis Club's exclusive use of certain beaches.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:27 p.m. – 5:29 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-2 *Helen Soroush-Azar v. City of San Diego***  
San Diego Superior Court No. IC 841453

*Kristina Hancock, et al. v. City of San Diego*  
San Diego Superior Court No. GIC 847615

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

DCA assigned: H. Wierman

These matters involve quite title actions against the City. Plaintiffs seek title to certain strips of land that front their residential property in La Jolla. In closed session the City Attorney will brief the Council on the matters and seek approval to enter into stipulated judgments with the Plaintiffs.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:31 p.m. – 5:31 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-3** *San Diego City Employees Retirement System v. City of San Diego and San Diego City Attorney Michael J. Aguirre and related cross-claim.*  
San Diego Superior Court GIC 841845

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This matter is an action filed by the retirement system covering a variety of issues. The matter was stayed pending activity of the City's Audit Committee, but the stay recently expired. The City Attorney filed a cross-complaint raising a variety of issues and will brief the City Council on the status of the matter in closed session and request appropriate direction.

CLOSED SESSION COMMENT 1

Ann Smith urged the City Council to take a closer look at the City's pension benefit program and the work that City employees do, and the expense to the City for litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:31 p.m. –6:00 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-4** *San Diego City Employees Retirement System v. City of San Diego, et al.*  
San Diego Superior Court GIC 851286

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This matter is an action filed by the retirement system covering a variety of issues. In closed session the City Attorney will brief the City Council on the status of the matter and request appropriate direction.

CLOSED SESSION COMMENT 1

Ann Smith urged the City Council to take a closer look at the City's pension benefit program and the work that City employees do, and the expense to the City for litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:31 p.m. – 6:00 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-5** *San Diego Police Officers Association v. Michael Aguirre, et al.*  
United States District Court No. 05 CV 1581

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This matter is an action filed by the San Diego Police Officers Association for damages and declaratory relief. In closed session the City Attorney will brief the Council on the status of the matter and seek approval for the engagement of outside counsel.

CLOSED SESSION COMMENT 1:

Ann Smith commented on the City paying the cost of indemnification for Council Members arising from the Police Officers Association's lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:01 p.m. – 6:16 p.m.)

Deputy Mayor Atkins closed the hearing.



**CS-6 *Marcus R. Abbe, et al. v. City of San Diego, et al.***  
United States District Court No. 05 CV 1629

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This matter is a class action filed by numerous police officers alleging violations of the memorandum of understanding with the City of San Diego. In closed session the City Attorney will brief the Council on the status of the matter and seek appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-7 *William J. McGuigan v. City of San Diego, et al.***  
San Diego Superior Court GIC 849883

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This lawsuit was filed on behalf of a retired City employee against the City of San Diego requesting that the Court order the City to immediately pay all past unfunded pension liability to the retirement system. In closed session, the City Attorney will brief the City Council on the matter and request appropriate direction, including direction with regard to hiring outside counsel to assist on this matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-8 *John A. Torres, et al. v. City of San Diego, et al.***  
San Diego Superior Court GIC 852293

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This action involves allegations that the City owes the Plaintiffs attorneys' fees as the result of their being named as defendants in the civil case *People v. Grissom*, SDSC GIC 850246 and in the cross-complaint *City v. SDCERS, et al.* SDSC GIC 841845. In closed session the City Attorney will brief the Council on the status of the matter and seek appropriate direction.

CLOSED SESSION COMMENT 1:

Ann Smith commented on the City paying the cost of indemnification for Council Members arising from the Police Officers Association's lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:01 p.m. –6:16 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-9 *City of San Diego v. Callan, et al.***  
San Diego Superior Court GIC 852419

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This is an action filed by the City seeking recovery of investment losses related to defendants' investment work for SDCERS. In closed session the City Attorney will brief the Council on the status of the matter and seek appropriate direction, and approval of hiring outside counsel to assist on this matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-10 *Border Business Park v. City of San Diego***

Appellate Case No. D039225; SDSC Case No. GIC 692794

*Otay Acquisitions v. City of San Diego*

SDSC Case No. GIC 753247

*National Enterprises, Inc. v. City of San Diego*

SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-11 In Re: SEC Investigation into City Bond and Disclosure Practices**

ACA assigned: D. McGrath

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

In closed session the City Attorney will discuss the SEC ongoing investigation into the City's bond and disclosure practices and a tentative draft consent decree.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-12 *Michael Shames v. City of San Diego***  
San Diego Superior Court Case No. GIC 831539

DCA assigned: J. Riley

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This case involves a class action lawsuit brought by Michael Shames on behalf of single-family sewer customers seeking a refund based on a claim that the City of San Diego failed to properly calculate sewer bills. The City Attorney will, in closed session, advise City Council regarding the status of mediation.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**CS-13 *In re: United States Securities and Exchange Commission Investigation and United States Attorney investigation into City's Finances.***

ACA: A. Noone

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

In closed session the City Attorney will advise the Council regarding waiver of the attorney client privilege and the protection of the work product doctrine as it relates to subpoenas issued by the SEC and the U. S. Attorney.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 6:17 p.m. – 6:17 p.m.)

Deputy Mayor Atkins closed the hearing.

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):**

**CS-14 California State University Board of Trustees**

ACA assigned: K. Heumann

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 6, 2005

This matter involves the SDSU Campus Master Plan Environmental Impact Report [EIR]. The City of San Diego and the Redevelopment Agency of the City of San Diego City are both responsible agencies for purposes of CEQA. The Agencies reviewed the EIR and provided comments on the draft EIR which addressed deficiencies in the EIR. In closed session, the City Attorney will brief the Council on the status of the matter and seek direction from the City Council and Redevelopment Agency.

**CLOSED SESSION COMMENT 1:**

Dan Beeman urged that the subject of eminent domain regarding UCSD needs to be studied more closely.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:30 p.m. – 5:30 p.m.)

Deputy Mayor Atkins closed the hearing.

\* ITEM-50: Amendments to the Agreements with URS Corporation and P&D Consultants for As-Needed Design Services for Retrofit Projects.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 8/1/2005, Item 55. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant):

Subitem-A: (O-2005-146) ADOPTED AS ORDINANCE O-19405 (New Series)

Authorizing the City Manager to execute, for and on behalf of the City, a First Amendment to the Agreement between City of San Diego and URS Corporation

(formerly HYA Consulting Engineers, a Dames and Moore Company)  
(Agreement) for as-needed Consultant Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$7,200 from Water Fund 41500, CIP-70-941.0, Annual Allocation Reclaimed Water Retrofit, for the purpose of providing additional funding for design services with URS Corporation for Miramar Wholesale Nursery Retrofit Project due to construction change to complete this project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

Subitem-B: (O-2005-147) ADOPTED AS ORDINANCE O-19406 (New Series)

Authorizing the City Manager to execute, for and on behalf of the City, a Fourth Amendment to the Agreement between City of San Diego and P&D Consultants, Inc. for as-needed Professional Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$5,300 from Water Fund 41500, CIP-70-941.0, Annual Allocation Reclaimed Water Retrofit, for the purpose of providing additional funding for design services with P&D Consultants, Inc. for Scripps Poway Parkway MRN MAD Retrofit Project due to construction change to complete this project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

 \* [ITEM-51:](#) Amending the San Diego Municipal Code to Prohibit Write-In Candidates in City Run-Off Elections.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 8/8/2005, Item 50. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant.):

(O-2006-9) ADOPTED AS ORDINANCE O-19407 (New Series)

Amending Chapter 2, Article 7, Division 3 of the San Diego Municipal Code by amending Sections 27.0301, 27.0305, 27.0308, 27.0315, and 27.0323, and amending Chapter 2, Article 7, Division 6 of the San Diego Municipal Code by amending Section 27.0636, all relating to the City of San Diego Elections Code.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-52: Exempting One Program Manager Position from the Classified Service for the San Diego Fire-Rescue Department.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 8/8/2005, Item 200. (Council voted 5-0. Councilmember Peters not present. District 2-vacant, District 8-vacant, and Mayor-vacant):

(O-2006-18) ADOPTED AS ORDINANCE O-19408

Exempting a Program Manager position from the classified service for the San Diego Fire-Rescue Department.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-53: Rezoning 27.04 Acres Located East of Camino Del Sur and West of Calderon Road.

(Torrey Highlands Community Plan Area. District 1.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 8/2/2005, Item 336, Subitem A. (Council voted 6-0. District 2-vacant, District 8-vacant, and Mayor-vacant.):

(O-2005-139) ADOPTED AS ORDINANCE O-19409 (New Series)

Changing 27.04 acres, from the A1-10 Zone to the RS-1-14 Zone and 1.22 acres from the A1-10 Zone to the RM-1-3 Zone (previously referred to as the R1-5000 and R-2000 Zones) located east of Camino Del Sur and west of Calderon Road, in the Torrey Highlands (Subarea IV) Plan Area, in the Torrey Highlands Community Plan Area, in the City of San Diego, California, as defined by San Diego Municipal Code Section 131.0403 and 131.0406, repealing Ordinance No. O-12657 (New Series), adopted May 22, 1979, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

FILE LOCATION: LUP-Penasquitos West 08/02/05 (65)

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



- \* ITEM-100: Two actions related to Authorizing One-Year Extension of the Project Area Committees (PAC) and Noticing and Conducting PAC Elections for 2005 for the College Community and City Heights Project Area Committees.

(City Heights and College Community Areas. Districts 3, 4, and 7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-118) ADOPTED AS RESOLUTION R-300788

Authorizing a one-year extension of the College Community Project Area Committee (PAC) and directing Agency staff to notice and conduct the annual PAC Election in 2005.

Subitem-B: (R-2006-119) ADOPTED AS RESOLUTION R-300789

Authorizing a one-year extension of the City Heights Project Area Committee (PAC) and directing Agency staff to notice and conduct the annual PAC Election in 2005.

**CITY MANAGER SUPPORTING INFORMATION:**

California Community Redevelopment Law, California Health and Safety Code Section 33385, requires the legislative body of a city to call upon residents and existing community organizations in a redevelopment project area to form a Project Area Committee ("PAC") if there is a substantial number of low or moderate-income residents within the project area, and the redevelopment plan contains authority for the agency to acquire property by eminent domain on which anyone resides; or the redevelopment plan contains one or more public projects that will displace a substantial number of low/moderate-income residents. Each PAC serves as an advisory body to the Redevelopment Agency on policy matters affecting the residents of the project area. The Agency is required to consult with the PAC for at least three years after the redevelopment plan is adopted, subject to one year extensions by the legislative body.

Each PAC is elected and conducts its business in accordance with its specific PAC Formation Procedures ("Procedures") that were adopted individually by the City Council. The Procedures address the purpose and authority of the PAC, define the PAC's composition and membership, establish eligibility requirements for the term of membership and set procedures for conducting elections. In accordance with the College Community and City Heights PAC Procedures,

Agency staff must seek authorization from the City Council to: 1) extend the Redevelopment Project Area Committees (PAC) for one year; and 2) notice and conduct PAC elections.

**FISCAL IMPACT:**

None with this action.

Oppenheim/Fischle-Faulk/KG

Staff: Kim Gerhard – (619) 533-5369  
Rachel H. Witt – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-101: Sidney Kimmel Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-139) ADOPTED AS RESOLUTION R-300790

Proclaiming the day of August 19, 2005, to be "Sidney Kimmel Day" in the City of San Diego in recognition of the positive impact Sidney Kimmel brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-102: San Diego Surf Cup Days.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-148)                      ADOPTED AS RESOLUTION R-300791

Proclaiming July 30–August 1, 2005, August 6–8, 2005, and November 25–27, 2005, as “San Diego Surf Cup Days” in the City of San Diego.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-103: Excusing Deputy Mayor Atkins from the Government Efficiency and Openness Committee Meeting of August 8, 2005.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-142)                      ADOPTED AS RESOLUTION R-300792

Excusing Deputy Mayor Atkins from attending the regularly scheduled Government Efficiency and Openness Committee meeting of August 8, 2005.

FILE LOCATION:                      AGENDA

COUNCIL ACTION:                      (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- \* ITEM-104: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2006-15)                      ADOPTED AS RESOLUTION R-300793

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION:                      GEN'L - State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION:                      (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- \* ITEM-105: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-1244)                      ADOPTED AS RESOLUTION R-300794

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-150: Amending the San Diego Municipal Code Related to Revisions to the Building Regulations for Buildings in Fire Hazard Areas.

(See City Manager Reports CMR-05-176 and CMR-05-078.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2005-117) INTRODUCED, TO BE ADOPTED ON MONDAY,  
SEPTEMBER 19, 2005

Introduction of an Ordinance amending Chapter 14, Article 5 of the San Diego Municipal Code by adding a new Division 5, and by adding Sections 145.0501, 145.0502, 145.0503, 145.0504, and 145.0505, all relating to Additional Building Standards for Buildings Located Adjacent to Hazardous Areas of Native or Naturalized Vegetation.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 4/6/2005, LU&H voted 5 to 0 to approve. (Councilmembers Peters, Atkins, Young, Frye, and Inzunza voted yea.)

Staff: Ali Fattah – (619) 446-5092  
John C. Hemmerling – Deputy City Attorney

**NOTE:** See also related Item 330.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:19 p.m. – 3:35 p.m.)

MOTION BY MAIENSCHIN TO INTRODUCE. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-200: Appointments of Richard Rider and Diann Shipione to the San Diego City Employees' Retirement System Board of Administration.

(See memorandum from Deputy Mayor Atkins dated 8/4/2005, with resume attached.)

(Continued from the meeting of August 9, 2005, Item S502, at the request of Councilmember Frye, for further review.)

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-128) RETURNED TO DEPUTY MAYOR ATKINS

Council confirmation of the following two appointments by the Deputy Mayor of the City of San Diego to serve as members of the San Diego City Employees' Retirement System Board of Administration;

**NAME**

**TERM ENDING**

Richard Rider  
(Scripps Ranch, District 5)  
(Replacing Susan H. Snow, who resigned)

March 31, 2007

Diann Shipione  
(La Jolla, District 1)  
(Replacing Robert H. Wallace, who resigned)

March 31, 2009

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:46 p.m. – 4:49 p.m.)



ITEM-201: Six actions related to Approval of Leases for the Convention and Performing Arts Center.

(See City Manager Report CMR-05-153. Center City Community Area. District 2.)

(Continued from the meetings of July 18, 2005, Item 202, July 25, 2005, Item S404, and August 8, 2005, Item 202, last continued at the request of City Attorney Aguirre, for further review.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-1366) CONTINUED TO MONDAY, SEPTEMBER 19, 2005

Authorizing the City Manager to execute, for and on behalf of the City of San Diego, a lease agreement between the City and Neighborhood Involvement Association, for the use of Golden Hall, meeting and conference rooms, and other specified portions of the San Diego Community Concourse for a period of five years with the option for five one-year extensions for the management, marketing, and operation of the Lease Premises at the Concourse as a public assembly venue for entertainment, sporting events, educational, community, convention performing arts, corporate, and civic activities at the base rental rate of \$130,000 per year (with the base rent for the first five years (\$650,000) paid in advance) plus percentage rent of five percent of gross income paid on a monthly basis, and on such other terms and conditions as are set forth in the proposed Lease Agreement.

Subitem-B: (R-2005-1367 Cor. Copy) CONTINUED TO MONDAY,  
SEPTEMBER 19, 2005

Authorizing the City Manager to rename the Municipal Parking Garage Operations Fund (Fund 10322) as the "Concourse and Parking Garages Operating Fund," and to reprogram the Fund for operation of the Concourse, the Evan P. Jones Parkade, and the parking garage for the World Trade Center building;

Authorizing the City Manager to redirect and deposit rent revenues from the CAB Deli and Downtown Johnny Brown's leases, currently deposited into Revenue Account No. 75602, to Fund 10322;

Authorizing the City Manager to establish a reserve for Fund 10322 in an amount up to \$550,000 for Fiscal Year 2006, and to determine the appropriate reserve amount for future fiscal years.

Subitem-C: (R-2005-1368) CONTINUED TO MONDAY, SEPTEMBER 19, 2005

Authorizing the City Manager to expend an amount not to exceed \$500,000 from Fund 10322 for tenant improvements to Plaza Hall required to relocate the City's General Services Department, Print Shop operations to Plaza Hall, contingent upon the City Auditor and Comptroller certifying the availability of funds;

Declaring the City Manager shall direct repayment of this amount by the General Services Department, Print Shop to Fund 10322 in payments amortized over seven years.

Subitem-D: (R-2005-1369 Cor. Copy) CONTINUED TO MONDAY,  
SEPTEMBER 19, 2005

Authorizing the City Manager to execute, for and on behalf of the City, a lease agreement between the City and San Diego Civic Opera for use of the Copper Room located within the San Diego Community Concourse for a period of one year with the option for four one-year extensions and upon such other terms and conditions as are substantially set forth in the form of agreement attached to City Manager Report No. 05-153, dated July 13 2005.

Subitem-E: (R-2005-1371 Cor. Copy) CONTINUED TO MONDAY,  
SEPTEMBER 19, 2005

Authorizing the City Manager to execute, for and on behalf of the City, a lease agreement between the City and Vince and Claudia Paradise doing business as Paradise Cafe III, for the operation of a deli for a term of three years with the option of two one-year extensions at the rental rate of the greater of \$870 per month or 7% of gross revenue, and on such other terms and conditions as are substantially set forth in the form of lease agreement attached to City Manager Report No. 05-153, dated July 13, 2005.



Subitem-F: (R-2005-1370 Cor. Copy) CONTINUED TO MONDAY,  
SEPTEMBER 19, 2005

Authorizing the City Manager to execute, for and on behalf of the City, a concession agreement between the City and Vince and Claudia Paradise doing business as Paradise Cafe II for the coffee cart concession in the outdoor plaza areas at the Civic Center Complex for a term of one year with the option of four one-year extensions at the rental rate of the greater of \$1,500 per month or 15 % of gross revenue, and on such other terms and conditions as are substantially set forth in the form of agreement attached to City Manager Report No. 05-153, dated July 13, 2005.

Staff: Chris Hargett – (619) 236-6766  
Carrie L. Gleason – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:42 a.m.)

MOTION BY MADAFFER TO CONTINUE TO SEPTEMBER 19, 2005 AT THE REQUEST OF THE LEASEE FOR FURTHER REVIEW OF THE CONTRACT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-202: Proposed Amendment to the Procedures for Formation of Project Area Committee (PAC) for the Centre City Redevelopment Project.

(See Centre City Development Corporation Report CCDC-05-14. Centre City Redevelopment Project Area. Districts 2 and 8.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-155) ADOPTED AS RESOLUTION R-300797

Approving the amendment to Section 700 of the Project Area Committee (PAC) Procedures to allow for a Voter Registration Roll for the Centre City Redevelopment Project.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:11 p.m. – 2:15 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-203: Removal of Peter Preovolos as a Member of the Retirement Board of the San Diego City Employees' Retirement System (SDCERS).

(See Memorandum of Law dated 8/5/2005 from City Attorney Aguirre.)

(Continued from the meeting of August 9, 2005, Item S500, at the request of Councilmember Frye, to allow for further review of Mr. Preovolos' performance of his fiduciary duties.)

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2006-124) FAILED

Removing Peter Preovolos from the appointment as a member of the San Diego City Employees' Retirement System (SDCERS) Retirement Board.

**SUPPORTING INFORMATION:**

Each member of the Board of San Diego City Employees' Retirement System (SDCERS) is required to perform their responsibilities as fiduciaries. Central to the performance of these duties is the obligations to ensure accurate financial statements are issued and audited on an annual basis. Peter Preovolos, as the Chair of the Retirement Board, has failed to meet the fiduciary duty to ensure that accurate and complete financial statements are issued and audited on an annual basis in that Mr. Preovolos has specifically refused to order or permit an AU Section 317 illegal acts investigation for the 2003 and 2004 SDCERS financial statements. Mr. Preovolos has been informed through public reports by the City Attorney, letters from the City's outside auditor KPMG, other public reports, and by the existence of U.S. Attorney investigations and District Attorney prosecutions, of the existence of possible illegal acts by prior

SDCERS Board Members, and despite this knowledge and requests by the City Council, City Attorney, the City's Audit Committee, retirees, and union leaders, Mr. Preovolos has refused to order or permit an illegal acts investigation. This failure has put the pension system into further financial crisis, has not attempted to minimize contributions by the City as required by Article xvi, Section 17 of the California Constitution, and threatens the financial welfare and future ability of the City to make contributions to SDCERS. Accordingly, it is appropriate and proper to remove Mr. Preovolos from the appointment as a member of the SDCERS Retirement Board.

Aguirre

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:36 p.m. – 4:35 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Failed. Yeas-3,5,6. Nays-1,4,7. District 2-vacant. District 8-vacant. Mayor-vacant.



ITEM-204: Appointments of Ezekiel E. Cortez and Thomas C. Hebrank to the San Diego City Employees' Retirement System Board of Administration.

(See memorandum from Deputy Mayor Atkins dated 8/4/2005, with resumes attached.)

(Continued from the meeting of August 9, 2005, Item S501, at the request of Councilmember Frye, for further review.)

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-125) ADOPTED AS AMENDED AS RESOLUTION R-300798

Council confirmation of the following two appointments by the Deputy Mayor of the City of San Diego to serve as members of the San Diego City Employees' Retirement System Board of Administration;

**NAME**

**TERM ENDING**

Ezekiel E. Cortez  
(Rancho Peñasquitos, District 1)  
(Replacing Thomas E. King, who resigned)

March 31, 2009

Thomas C. Hebrank  
(Kensington, District 3)  
(Replacing Thomas A. Page, who resigned)

March 31, 2009

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 4:50 p.m. – 5:01 p.m.)

Deputy Mayor Atkins announced that Ezekiel E. Cortez withdrew his name from consideration for appointment by the Council to the San Diego City Employees' Retirement System Board of Administration.

MOTION BY PETERS TO ADOPT AS AMENDED TO APPOINT THOMAS C. HEBRANK TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM BOARD OF ADMINISTRATION. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-250: **Notice** of Settlement of Property Damage Claims of Luis Martinez, Salvador Lopez, and Kimberly Phan.

(R-2006-121)

Adopted as Resolution R-300777 on August 9, 2005.

A Resolution approved by the City Council in Closed Session on Tuesday, August 9, 2005, by the following vote: Peters-yea; District 2-vacant; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Madaffer-yea; District 8-vacant; Mayor-vacant.

Authorizing the City Manager to pay the sum not exceeding \$300,000 in the settlement of each and every claim against the City of San Diego, its agents and

employees, resulting from the property damage claims of Luis Martinez, Salvador Lopez, and Kimberly Phan;

Authorizing the City Auditor and Comptroller to issue checks not to exceed a total of \$300,000 made payable to the claimants named herein.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

**ITEM-251: Notice of Pending Final Map Approval – 1915 Emerald Street.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “1915 Emerald Street” (T.M. No. 27246/PTS No. 56155 ), located southeasterly of Lamont Street and Emerald Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-252: Notice of Pending Final Map Approval – 4504 60<sup>th</sup> Street Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4504 60<sup>th</sup> Street Condominiums” (T.M. No. 173674/PTS No. 72002), located northwesterly of Estelle Street and 60<sup>th</sup> Street in the Mid-City: Eastern Area Community Plan Area in Council District 7, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-253: Notice of Pending Final Map Approval – 1636 Meade Avenue.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “1636 Meade Avenue” (T.M. No. 70401/PTS No. 64915), located northwesterly of Meade Avenue and North Avenue in the Uptown Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-254: Notice of Pending Final Map Approval – 3970 Utah Street Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3970 Utah Street Condominiums” (T.M. No. 135876/PTS No. 71907), located northwesterly of University Avenue and Utah Street in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-255: Notice of Pending Final Map Approval – 836 W. Pennsylvania Avenue.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “836 W. Pennsylvania Avenue” (T.M. No. 120499/PTS No. 52064), located northeasterly of Pennsylvania Avenue and Goldfinch Street in the Uptown Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.



**ITEM-256: Notice of Pending Final Map Approval – 4818 68<sup>th</sup> Street.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4818 68<sup>th</sup> Street” (T.M. No. 19403/PTS No. 47001), located southwesterly of 68<sup>th</sup> Street and Amherst Street in the Mid-City: Eastern Area Community Plan Area in Council District 7, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-257: Notice of Pending Final Map Approval – 2741 “A” Street Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “2741 “A” Street Condominiums” (T.M. No. 92379/PTS No. 66979), located southeasterly of “A” Street and 27<sup>th</sup> Street in the Southeastern San Diego, Southeastern Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-258: Notice of Pending Final Map Approval – 3055 Ivy Street.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3055 Ivy Street” (T.M. No. 90450/PTS No. 424276), located southeasterly of Ivy Street and Fern Street in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-259: Notice of Pending Final Map Approval – La Boheme Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “La Boheme Condominiums” (T.M. Waiver No. 10175/PTS No. 52938), located northeasterly of 30<sup>th</sup> Street and University Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the

map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-260: Notice of Pending Final Map Approval – 3764 Bayside Lane.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “3764 Bayside Lane” (T.M. No. 50891/PTS No. 72725), located southwesterly of Bayside Lane and Redondo Court in the Mission Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-261: Notice of Pending Final Map Approval – 4077 3<sup>rd</sup> Avenue Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4077 3<sup>rd</sup> Avenue Condominiums” (T.M. No. 163138/PTS No. 75072), located

southeasterly of Third Avenue and Lewis Street in the Uptown Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-262: Notice of Pending Final Map Approval – Boston Village.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Boston Village” (T.M. No. 17737/PTS No. 60111), located southeasterly of Boston Avenue and 43<sup>rd</sup> Street in the Southeastern San Diego, Southeastern Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-263: Notice of Pending Final Map Approval – Black Mountain Ranch West Clusters Unit No. 1.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Black Mountain Ranch West Clusters Unit No. 1” (T.M. No. 40-0529/PTS No. 33422), located southwesterly of San Dieguito Road and Camino Del Sur in the Rancho Bernardo Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must

be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

**ITEM-264: Notice of Pending Final Map Approval – 1633 Diamond Street Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “1633 Diamond Street Condominiums” (T.M. No. 11142/PTS No. 60195), located southeasterly of Ingraham Street and Diamond Street in the Pacific Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-265: **Notice of Completion and Acceptance of Subdivision Improvement Agreement.**

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

COMMUNITY AREA

Torrey Pines Estates  
Villa at Stallion Crossing

Carmel Valley  
North City Future Urbanizing Area

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.



ITEM-330: Brush Management Revisions to the Land Development Code Resulting from the Cedar Fire.

Matter of approving, conditionally approving, modifying or denying Brush Management Revisions to the Land Development Code. This project is of citywide significance.

(See City Manager Report CMR-05-174. LDC Revisions/Project No. 31245. Districts - Citywide.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the ordinance in Subitem A; and adopt the resolutions in Subitems B and C:

Subitem-A: (O-2005-46) INTRODUCED, TO BE ADOPTED MONDAY,  
SEPTEMBER 19, 2005, WITH DIRECTION

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 4, Article 4, Division 3, of the San Diego Municipal Code by amending



Section 44.0307, by renumbering Section 44.0307.1 to Section 44.0307(c), all pertaining to health and sanitation; Amending Chapter 5, Article 5, Division 1 by amending Section 55.0101; Amending Chapter 5, Article 5, by repealing Division 92, relating to appendices to the fire code; Amending Chapter 14, Article 2, Division 3, by amending Section 142.0360, pertaining to fence regulations; Amending Chapter 14, Article 2, Division 4, by amending Sections 142.0402; 142.0403 and 142.0412; And amending Chapter 14, Article 3, Division 1, by amending Section 143.0310, all relating to brush management regulations.

Subitem-B: (R-2006-166) ADOPTED AS RESOLUTION R-300799,  
WITH DIRECTION

Adoption of a Resolution authorizing the City Manager or his representative to take the necessary actions to increase the conservation target of land under the City's MSCP Subarea Plan by 715 acres.

Subitem-C: (R-2006-151) ADOPTED AS RESOLUTION R-300800

Adoption of a Resolution certifying that the final Subsequent Environmental Impact Report/Environmental Assessment and Addendum, Project No. 31245, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), and the National Environmental Policy Act (NEPA), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the above project;

That pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

That pursuant to California Code of Regulations section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**CITY MANAGER SUPPORTING INFORMATION:**

On January 27, 2004, the City Council adopted a resolution (R-298827) directing the City Manager to take the necessary actions to amend the brush management regulations in the San Diego Municipal Code to require a 100 foot defensible space between structures and native wildlands, to consider the fiscal cost of ongoing brush management on public lands, and develop a public outreach and training program.

The following report outlines the City Manager's proposed changes to existing San Diego Municipal Code §142.0412 to provide for greater defensible space by modifications to brush management regulations as developed by the City Manager, Fire-Rescue, Development Services, Planning Department, and the Park and Recreation.

The report also describes changes to San Diego Municipal Code §44.0307 and §142.0360 to allow the use of goats in the City of San Diego for brush management, and changes to San Diego Municipal Code §55.0101 and 55.9201 so that the brush management regulations are only in Chapter 14 of the San Diego Municipal Code.

The proposed changes, combined with the revisions to the Building Code to require fire resistant roofing (Class "A" roofing) effective March 1, 2004, are designed to help provide fire and rescue service time to control and extinguish potential fires. Additional changes to the Building Code to create more fire resistant structures are proposed to be brought to City Council simultaneously with these brush management revisions.

**FISCAL IMPACT:**

Brush management regulation changes will increase the Zone 2 thinning requirements to 65 feet or more. This could ultimately increase Park and Recreation's annual brush management budget shortfall to more than \$4 million in order to perform brush management for approximately 600 acres of urban/open space interface per year. In addition, nine additional staff members would ultimately need to be added to the Fire-Rescue Department's Fire Prevention Bureau to reinstate the Brush Management Program to the level established following the 1985 Normal Heights fire, resulting in an annual reoccurring cost of \$697,000. However, full scale implementation is not being proposed at this time, but could instead be phased in over the next several fiscal years if funding becomes available. Some one-time funding of up to \$2.16M for additional Park and Recreation brush management staff and crews may become available if the most recent FEMA

grant request is approved. Although the Park and Recreation Department has identified brush management needs, at this time the City Manager is not recommending additional staff from the General Fund to address brush management requirements.

Irvine/Bowman

**LEGAL DESCRIPTION:**

The project is located within the City of San Diego, public and private lands and includes the City of San Diego Multi-Habitat Planning Area (MHPA).

Staff: Samuel L. Oates – (619) 533-4407.

**NOTE:** See also related Item 150.

**FILE LOCATION:**

SUBITEM A: NONE  
SUBITEMS B & C: MEET

**COUNCIL ACTION:**

(Time duration: 2:32 p.m. – 3:18 p.m.)

Testimony in favor by Robert Dingeman, Robert Ilko, Scott Molloy, Erwin Willis, Jack Griffiths and Jeff Bowman.

MOTION BY MAIENSCHIN TO INTRODUCE THE ORDINANCE IN SUBITEM A; AND ADOPT THE RESOLUTIONS IN SUBITEMS B AND C, WITH DIRECTION THAT A COMMUNITY TASK FORCE GROUP BE ESTABLISHED TO WORK TOWARD PROVIDING ADDITIONAL RECOMMENDATIONS TO THE COUNCIL AT A LATER DATE REGARDING HOW THE BRUSH MANAGEMENT PLAN CAN BE BETTER IMPLEMENTED AND TO RECOMMEND ANY ADDITIONAL CHANGES TO THE PLAN. ACCEPT DEPUTY MAYOR ATKINS' RECOMMENDATION THAT THE MONITORING PROGRAM REPORT BE PROVIDED FOR THE FIRST YEAR TO THE COUNCIL AND THE NATURAL RESOURCES AND CULTURE COMMITTEE IN ORDER TO HEAR HOW THE PROGRAM WORKED. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-S500: John S. Lyons Day.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-191)            ADOPTED AS RESOLUTION R-300795

Recognizing the San Diego County Building & Construction Trades Council, AFL-CIO for its efforts towards the success of the 23<sup>rd</sup> Annual John S. Lyons Memorial Banquet;

Proclaiming September 10, 2005 to be "John S. Lyons Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

\* ITEM-S501: Nomination to the Rules, Finance, and Intergovernmental Relations Committee

(See memorandum from Deputy Mayor Atkins dated 8/30/2005.)

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006-190)            ADOPTED AS RESOLUTION R-300796

Appointing Councilmember Donna Frye to serve as a member of the Rules Committee for a term ending December 31, 2005;  
Suspending Rule 18 of the Permanent Rules of Council temporarily pursuant to Rule 32 to permit the City Council to appoint a Councilmember to the Rules Committee who is other than the Mayor, Deputy Mayor, or one of the three

chairpersons of the Land Use and Housing, Natural Resources and Culture, or  
Public Safety and Neighborhood Services standing committees.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:38 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Young. Passed by the  
following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea,  
Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S502: Emergencies and Major Disasters Unfair Pricing Practices.

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce and adopt the ordinance in Subitem A; and introduce the ordinance in  
Subitem B:

Subitem-A: (O-2006-31) INTRODUCED AND ADOPTED AS  
ORDINANCE O-19410 (New Series)

Introduction and adoption of an Ordinance amending Chapter 5, Article 1, of the  
San Diego Municipal Code by adding a New Division 2, Sections 51.0201,  
51.0202, 51.0203, and 51.0204, all related to Emergencies and Major Disasters  
Unfair Pricing Practices.

**NOTE:** 6 votes required pursuant to Section 17 of the City Charter.

Subitem-B: (O-2006-33) INTRODUCED, TO BE ADOPTED MONDAY,  
SEPTEMBER 19, 2005

Introduction of an Ordinance amending Chapter 5, Article 1, of the San Diego  
Municipal Code by adding a New Division 2, Sections 51.0201, 51.0202,  
51.0203, and 51.0204, all related to Emergencies and Major Disasters Unfair  
Pricing Practices.

**SUPPORTING INFORMATION:**

The City Council of the City of San Diego finds that some unscrupulous merchants are taking advantage of citizens during and after both natural and manmade disasters by engaging in unfair pricing practices during and shortly after a state of emergency.

The state law provides protections to citizens from unfair pricing practices during and shortly after a state of emergency, through both civil and criminal remedies.

State law allows local governments to enact ordinances which prohibit unfair pricing practices during and shortly after a state of emergency and to impose penalties.

The City Council of the City of San Diego finds that local regulation is needed to further deter and curb unfair pricing practices and to protect the health, safety, and welfare of its citizens.

The City Council pursuant to Charter Section 17, is authorized to pass an emergency ordinance for the immediate preservation of the public peace, property, health, or safety.

Gas prices have risen to unprecedented levels, exacerbated by Hurricane Katrina.

Hurricane Katrina has resulted in a dramatic increase in gasoline prices which economists predict will raise the prices of consumer food items, heating oil, and other basic necessities essential to public health and safety.

The City Council finds that an emergency ordinance is necessary due to the rapidly increasing price of gasoline, which affects the ability of the City to deliver basic public services, including fire and police services.

These basic City services are needed to protect the health, and safety of the citizens of San Diego and to preserve the public peace.

As to all unfair pricing practices, there is currently no enforcement mechanism to prevent unfair pricing absent a declaration of a state of emergency in California by the Governor or local officials.

An enforcement mechanism is needed to protect San Diego consumers from the effect of unfair pricing in the local market.

The City Council declares an emergency under Charter Section 17 and desires to enact an ordinance which provides those further protections to its citizens.

Aguirre/Heumenn

FILE LOCATION: SUBITEM A: MEET  
SUBITEM B: NONE

COUNCIL ACTION: (Time duration: 5:02 p.m. – 5:26 p.m.)

MOTION BY FRYE TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A; AND INTRODUCE THE ORDINANCE IN SUBITEM B. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 6:29 p.m. in honor of the memory of:

Howard H. Carey as requested by Council Member Tony Young;  
Dr. David Segal as requested by Deputy Mayor Atkins;  
Marco Anguiano as requested by Deputy Mayor Atkins; and  
Michael Klokow as requested by Deputy Mayor Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:21 p.m. – 6:29 p.m.)